

REMARKS

Claims 1—32 are pending in this application. Claims 5, 6, 13, 17, 18, 21, 22, 24, and 29 have been amended. Claims 11, 16, 23, and 32 have been cancelled. Applicant respectfully traverses the rejection of the claims and requests reconsideration.

Claim 1 requires a light-absorbing treatment on at least a portion of the inner surface of the tube. Although the Examiner acknowledges that Akin does not disclose a light-absorbing treatment on at least a portion of the inner surface of the tube, applicant respectfully asserts that there is no motivation to combine the "light absorbent surface" of von Stavenhagen to the disclosure in Akin.

Akin discloses a sight that is in the form of a scope or tube having ends that are open ended at both ends of the tube so that the user can look entirely through the tube in such a way that a human eye looks through the proximal end of the tube and observes a target or other image through the distal end of the tube. The tube in von Stavenhagen is completely different from the tube in Akin. The tube in von Stavenhagen is not open ended at both ends of the tube. Rather, the tube in von Stavenhagen is only open ended at the proximal end of the tube. The distal end of the tube is closed to create a "shadow" and a "shade and contrast effect." (See von Stavenhagen, column 4, lines 2-7; *see also* von Stavenhagen, FIGS. 7—10) Therefore, while the tube in Akin is for the purpose of viewing therethrough, the tube in von Stavenhagen is for exactly the opposite purpose—to prevent viewing therethrough.

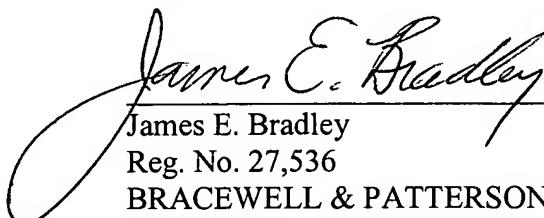
Furthermore, if one combined the essential principles of von Stavenhagen to Akin, Akin would no longer work as intended. Combining von Stavenhagen with Akin would effectively render the device disclosed in Akin useless. The tube in Akin is specifically designed to be viewed entirely therethrough. By enclosing one end of the tube of Akin, as is done in von Stavenhagen, the user would no longer be able to see through the viewing device disclosed in Akin, which would rhetorically render the viewing device of Akin "view-less." For these reasons, one of ordinary skill in the art would certainly not seek out the view-less tube of von Stavenhagen and apply it toward the viewing tube of Akin, and therefore Applicant respectfully asserts that there is absolutely no motivation whatsoever to combine the tube of von Stavenhagen to the viewing device of Akin.

Independent claims 13 and 24 have been amended to include the requirement that the tube is free of light-transmissive instruments from the optical flat to the distal end of the tube. This requirement is lacking in Akin, and most certainly lacking in von Stavenhagen. Light from the distal end must first contact the optical flat before reaching the optical instrument. In Akin, optical instruments 15 are located between the distal end and pellicles 64. Claims 6, 18, and 29 have been amended to include the requirement that the light-absorbing element is a coating mounted on a proximal surface at a central portion of the optical flat and that the proximal surface of the optical flat has an annular uncoated portion surrounding the coated light-absorbing element at the central portion. Akin teaches to coat the entire side of pellicles 64 and does not suggest an annular uncoated portion.

It is respectfully submitted that the claims are now in condition for allowance and favorable action is respectfully requested. The Commissioner is hereby authorized to charge all fees and any additional fees that may be required or credit any overpayment to Bracewell & Patterson, L.L.P. Deposit Account No. 50-0259 (0408RF.04539).

Respectfully submitted,

Date: March 14, 2005


James E. Bradley
Reg. No. 27,536
BRACEWELL & PATTERSON, L.L.P.
711 Louisiana, Suite 2900
Houston, TX 77002
Attorney for Applicant